

1 MICAH R. JACOBS (STATE BAR NO. 174630)  
2 ERIC K. FERRARO (STATE BAR NO. 172699)  
3 JACOBS & FERRARO, LLP  
One Embarcadero center, Suite 500  
3 San Francisco, CA 94111  
Telephone: 415-773-2852  
4 Facsimile: 415-773-2854

5 Attorneys for Plaintiffs  
DR. THOMAS YAMSHITA and SUNBURST PLANT  
6 DISEASE CLINIC, INC.

7

8 WILLIAM L. ANTHONY (STATE BAR NO. 106908)  
9 ELIZABETH A. HOWARD (STATE BAR NO. 173185)  
HARDIP B. PASSANANTI (STATE BAR NO. 217484)  
DIANA M. RUTOWSKI (STATE BAR NO. 233878)  
10 ORRICK, HERRINGTON & SUTCLIFFE LLP  
1000 Marsh Road  
11 Menlo Park, CA 94025  
Telephone: 650-614-7400  
12 Facsimile: 650-614-7401

13 Attorneys for Defendant and Counter Claimant  
14 WILBUR-ELLIS COMPANY

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18  
19 DR. THOMAS YAMASHITA, an individual;  
20 SUNBURST PLANT DISEASE CLINIC,  
INC., a California Corporation,

21 Plaintiffs and Counter Defendants

22 v.

23 WILBUR ELLIS COMPANY, a California  
24 Corporation; HUGHSON CHEMICAL  
COMPANY, LLC, a California Limited  
Liability Company,

25 Defendants and Counter Claimant.

26 Case No. C 06-01690 WHA

27  
28 **STIPULATION AND [PROPOSED]  
ORDER TO FILE DECLARATION OF  
ELIZABETH A. HOWARD IN SUPPORT  
OF WILBUR-ELLIS COMPANY'S  
REPLY TO PLAINTIFFS' OPPOSITION  
TO WILBUR-ELLIS COMPANY'S  
MOTION FOR AN ORDER  
SHORTENING TIME [SIC: MOTIONS  
FOR SANCTIONS AND TO STRIKE  
PLAINTIFFS' MOTION TO STRIKE  
DECLARATION OF DR. ARNOLD J.  
BLOOM] AND EXHIBIT A THERETO  
UNDER SEAL**

## **STIPULATION**

1. Plaintiffs Dr. Thomas Yamashita and Sunburst Plant Disease Clinic, Inc. (“Plaintiffs”) and Defendant Wilbur-Ellis Company (“Wilbur-Ellis”) (collectively the “Parties”) submit this Stipulation, pursuant to Civil Local Rules 7-11 and 7-12, regarding Wilbur-Ellis’ Company’s Administrative Motion to file its Declaration of Elizabeth A. Howard in Support of Wilbur-Ellis Company’s Reply to Plaintiffs’ Opposition to Wilbur-Ellis Company’s Motion For An Order Shortening Time [sic: Motions for Sanctions and to Strike Plaintiffs’ Motion to Strike Declaration Of Dr. Arnold J. Bloom] (“Declaration”) and Exhibit A thereto (“Exhibit A”) Under Seal. The Parties ask the Court to approve the Stipulation.

2. Exhibit A contains documents, produced by Dr. Thomas Yamashita and Sunburst Plant Disease Clinic, Inc., Bates labeled SUN 0041 – SUN 0194, and designated by Plaintiffs as “Confidential Outside Attys’ Eyes Only,” pursuant to the Patent Local Rule 2-2, thereby imposing a duty on the parties not to publicly disclose the contents of Exhibit A.

3. The Declaration contains information from Exhibit A, thereby imposing a duty on the parties not to publicly disclose the contents of the Declaration.

4. Pursuant to General Order No. 45, X(B), the filer attests that she has obtained the concurrence in the filing of this document from Micah R. Jacobs, attorney for Plaintiffs.

NOW, THEREFORE, the Parties hereby AGREE AND STIPULATE and request that the Court order that Declaration of Elizabeth A. Howard in Support of Wilbur-Ellis Company's Reply to Plaintiffs' Opposition to Wilbur-Ellis Company's Motion For An Order Shortening Time [sic: Motions for Sanctions and to Strike Plaintiffs' Motion to Strike Declaration Of Dr. Arnold J. Bloom] and Exhibit A thereto be filed under seal.

1 Respectfully submitted,

2 ORRICK, HERRINGTON & SUTCLIFFE LLP

3

4 Dated: May 8, 2006

5 By: \_\_\_\_\_ /s/  
6 Diana Rutowski  
7 Attorneys for Defendant and Counter Claimant  
8 Wilbur-Ellis Company

9 Dated: May 8, 2006

10 By: \_\_\_\_\_ /s/  
11 Micah R. Jacobs  
12 Attorneys for Plaintiffs and Counter Defendants  
13 Dr. Thomas Yamashita and Sunburst Plant Disease  
14 Clinic, Inc.

15 **[PROPOSED] ORDER**

16 The Declaration of Elizabeth A. Howard in Support of Wilbur-Ellis Company's  
17 Reply to Plaintiffs' Opposition to Wilbur-Ellis Company's Motion For An Order Shortening  
18 Time [sic: Motions for Sanctions and to Strike Plaintiffs' Motion to Strike Declaration Of Dr.  
19 Arnold J. Bloom] ("Declaration") and Exhibit A thereto shall be filed under seal.

20 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

21 Dated: May 9, 2006



22 Honorable William Alsup  
23 United States District Court Judge